

REMARKS

Claim 45 has been amended to correct an improper claim dependency.

Claims 37, 38, 40-43, and 45-47 stand rejected under 35 U.S.C. § 112, first paragraph. While applicant believes the claims as previously presented complied with written description requirements, the claims nevertheless have been amended to clarify the subject matter claimed. Support for the amendment is clearly found at figures 3 and 4.

Claims 37, 38, 45 – 48, 51 and 53-55 stand rejected under 35 U.S.C. § 102(e) as anticipated by U.S. Pat. No. 6,623,486 to Weaver. The applicant respectfully traverses the rejection for the following reasons. The claims, as amended, clarify that the non-threaded alignment hole in the head portion of the plate is located within the proximal-distal and medial-lateral boundaries defined between two peg holes. This is clearly shown in Figs. 3 and 4 of the Specification. The holes referred to as alignment holes in Weaver are located outside the claimed boundary in which the claimed alignment holes must be located within the claimed invention. In Weaver, the holes are displaced toward the head end of the plate, as shown by the Examiner in her mark-up of Fig. 21 of Weaver from the prior office action. The placement adjacent the head end is important as the holes are “suture holes” (col. 3, lines 7-8; col. 7, lines 15-17) which require a small portion of the plate to be looped. The identified holes are not used for alignment purposes, for k-wires, and are not otherwise associated with fastener holes 86b.

Claims 37, 38, 40-43, 45-46, 48-51, 53-55, 58-59, 65-69 stand rejected under 35 U.S.C. § 102(e) as anticipated by U.S. Pub. No. 2004/0030339 to Wack. In Wack, the k-wires holes are displaced toward the head end of the plate from the claimed configuration. The k-wire holes are used to temporarily fix the plate on the bone with k-wires after placing the plate on the bone by way of visual positioning. (¶139) The k-wires holes do not need to be located between fastener holes, as the fastener holes are not necessarily fixed angle and the k-wire holes are not stated to be fixed angle. Therefore, the k-wires may extend in any of several directions providing no useful information to the surgeon, and the many of the fastener holes are used with omnidirectional bushings which permit the fasteners extending therethrough the extend in a non-predetermined direction. As such, situating the k-wire holes within the boundaries of adjacent fastener holes are not taught or suggested.

With the claimed invention, by locating k-wire alignment holes between peg holes, upon insertion of k-wires therein and fluoroscopic examination thereof, a surgeon can optimally determine whether pegs inserted into the peg holes (which will follow a similar trajectory as the axes of the k-wire alignment holes) will be properly situated relative to the anatomy, e.g., the subchondral bone of the distal radius which forms the articular surface thereof.

For the foregoing reasons, the indicated claims are allowable over the Weaver and Wack references, alone or in combination with other cited art.

It is submitted that the claims are in order for allowance, and prompt allowance is earnestly requested. Should any issues remain outstanding, the Examiner is invited to call the undersigned attorney of record so that the case may proceed expeditiously to allowance.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'David S. Jacobson', written over a horizontal line.

David S. Jacobson
Reg. No. 39,235
Attorney for Applicant(s)

GORDON & JACOBSON, P.C.
60 Long Ridge Road
Suite 407
Stamford, CT 06902
Ph: 203-323-1800

March 19, 2008